

REMARKS

Entry of the foregoing amendments is respectfully requested.

Summary of Amendments

Upon entry of the foregoing amendments, claims 77-92 are cancelled and claims 93-111 are added, whereby claims 93-111 will be pending, with claim 93 being the only independent claim.

Support for the new claims can be found throughout the present specification (see, e.g., page 17 and the exemplified compounds of formula D3).

Applicants emphasize that the cancellation of claims 77-92 is without prejudice or disclaimer, and Applicants expressly reserve the right to prosecute the cancelled claims in one or more continuation and/or divisional applications.

Summary of Office Action

As an initial matter, Applicants note with appreciation that the Examiner has indicated consideration of the Information Disclosure Statement filed November 30, 2006 by returning a signed copy of the Form PTO-1449 submitted therein.

Applicants further note with appreciation that the Examiner has acknowledged the claim for foreign priority under 35 U.S.C. § 119(a)-(d) and (f) and the receipt of certified copies of the priority documents.

Claims 79-92 are withdrawn from consideration.

Claims 77 and 78 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to

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comply with the written description requirement.

Claims 77 and 78 are also rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Santana et al., J. Agric. Food Chem. (2002) 50: 2318-2323 (hereafter “SANTANA”).

Claims 77 and 78 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 77-78 of co-pending Application No. 10/575,878 and claims 77-78 of co-pending Application No. 10/575,882.

Response to Office Action

Reconsideration and withdrawal of the rejections of record are respectfully requested, in view of the foregoing amendments and the following remarks.

Response to Rejection under 35 U.S.C. § 112, First Paragraph

Claims 77 and 78 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement due to the recitation therein of the term “salt derivatives”.

Applicants respectfully disagree with the Examiner in this regard. Nevertheless, the claims submitted herewith do not contain the term “salt derivatives”, thereby rendering this rejection moot.

Response to Rejection under 35 U.S.C. § 103(a)

Claims 77 and 78 are also rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over SANTANA. The rejection alleges that SANTANA describes lupanine which allegedly reads on

general structure D3. The rejection concedes that SANTANA does not teach a pharmaceutical or cosmetic composition of lupanine which comprises at least one of a pharmaceutically acceptable carrier and a pharmaceutically or cosmetically acceptable adjuvant but asserts that SANTANA teaches a composition of lupanine in aqueous media and that it would allegedly have been *prima facie* obvious to one of ordinary skill in the art to prepare a composition comprising lupanine and a cosmetically acceptable carrier and/or adjuvant “with the motivation of obtaining a better cosmetic formulation of Lupanine” with a reasonable expectation of success.

Applicants respectfully traverse this rejection. In particular, SANTANA makes it clear that lupanine has no useful application, let alone a cosmetic application, but is an undesired by-product whose bacterial removal together with other quinolizidine alkaloids and other carbon sources from a *Lupinus albus* aqueous extract is the subject of SANTANA (see, e.g., title of SANTANA).

Specifically, at page 2318 of SANTANA it is set forth that quinolizidine alkaloids (QA) such as, e.g., lupanine are toxic compounds which are present throughout plants of the genus *Lupinus*, imparting a bitter taste and constituting a defense mechanism against herbivory of high protein tissue. Since lupinus seeds have been used as protein source since antiquity and lupinus albus is endemic in the Iberian Peninsula, the use thereof as protein source would be advantageous. However, the seeds of lupinus albus have a relatively high QA content, wherefore the leaching process which is traditionally used for alkaloid removal (debittering) affords an aqueous extract which not only contains (unavoidably extracted) but also a substantial amount of QA. For economic reasons and due to its protein content, the aqueous extract cannot be discarded, which means that the toxic QA must be removed therefrom. According to SANTANA, this can be accomplished in an

economic manner through biodegradation of QA by means of certain bacteria. A corresponding process is described by SANTANA.

The above summary of SANTANA should make it more than apparent that in view of the toxicity (and bitter taste) of lupanine there is no apparent reason but rather a clear disincentive for one of ordinary skill in the art to provide a cosmetic or pharmaceutical composition which comprises lupanine. Accordingly, SANTANA fails to render obvious the subject matter of any of the claims submitted herewith.

Applicants submit that for at least all of the foregoing reasons, the rejection under 35 U.S.C. § 103(a) over SANTANA is clearly without merit, wherefore withdrawal thereof is respectfully requested.

Response to Provisional Rejections

Claims 77 and 78 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 77-78 of co-pending Application No. 10/575,878 and claims 77-78 of co-pending Application No. 10/575,882.

Applicants respectfully request that these rejections be held in abeyance until the Examiner has indicated allowable subject matter. Applicants will then decide whether the filing of one or more Terminal Disclaimers is appropriate.

CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance (with the possible exception of obviousness-type double patenting). If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
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November 26, 2008
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